

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re

Chapter 9

CITY OF DETROIT, MICHIGAN,

Case No. 13-53846

Debtor.

Hon. Thomas J. Tucker

**STIPULATION FOR ENTRY OF AN ORDER MODIFYING OMNIBUS
CLAIM NO. 1881 FILED BY THE DPLSA TO WITHDRAW DPLSA
GRIEVANCE 10-024 FROM OMNIBUS CLAIM 1881 AS MOOT
WITHOUT PREJUDICE TO THE RIGHTS ASSERTED PURSUANT TO
INDIVIDUAL CLAIM NO. 3426 FILED BY DPLSA
MEMBER SERGEANT KEVIN D. MILLER**

The City of Detroit, Michigan (“City”) and the Detroit Police Lieutenants and Sergeants Association (“DPLSA”), by and through their undersigned counsel, hereby stipulate the entry of an Order Modifying DPLSA Omnibus Claim No. 1881 to Withdraw DPLSA Grievance No. 10-024 as Moot Without Prejudice to Individual Claim No. 3426 Filed by DPLSA Member Sergeant Kevin Dill Miller in the form attached hereto as Exhibit A on the following basis:

1. On February 20, 2014, the DPLSA filed Claim No. 1881.
2. Claim No. 1881 asserts DPLSA members’ right to recovery for certain pre-petition grievances (the “Pre-Petition Grievances”).

3. Among the Pre-Petition Grievances that are the subject of Claim No. 1881 is grievance no.10-024 asserted by the DPLSA on behalf of DPLSA member, Sergeant Kevin Miller (the “Miller Grievance”).

4. The City and the DPLSA have resolved all of the Pre-Petition Grievances except the Miller Grievance.

5. The remedy sought by the Miller Grievance was a “non-monetary cease and desist remedy.” See Exhibit B, P. 1 of Exhibit 1 B to Claim No. 1881.

6. In addition to Claim 1881, Sergeant Kevin Miller (“Miller”) has a pending, separate claim, Claim No. 3426 (the “Miller Claim”), which seeks monetary relief and which is based, in part, on some of the same allegations that were also the basis of the Miller Grievance.

7. Miller’s rights under the Miller Claim will be liquidated in *Miller v. City of Detroit, et al*, Wayne County Circuit Court Case No. 10-06411-CD, in which a judgment of no cause for action was rendered in favor of the defendants and against Miller (the “Miller Case”), along with sanctions awarded to the City, and which is currently the subject of a pending appeal, Michigan Court of Appeals Docket No. 328555(the “Miller Appeal”).

8. On June 29, 2016, while the Miller Appeal was pending and after Miller had declined the City and DPLSA's officer to modify the Miller Claim to expressly include the relief sought by Miller Grievance so that the Miller Grievance could be withdrawn, Miller passed away.

9. As a result of Miller's death, the City and the DPLSA seek confirmation that the Miller Grievance is moot and may be withdrawn, and, further, that such withdrawal is without prejudice to Miller's potential right to monetary relief under the Miller Claim, the Miller Case and/or the Miller Appeal.

10. The City and the DPLSA seek this determination so that Claim No. 1881 can be withdrawn based on the DPLSA and the City's settlement of the remaining grievances without prejudice to Miller's rights under the Miller Claim, the Miller Case and the Miller Appeal.

11. The City, the DPLSA and Miller, therefore, request that the Court enter an order that confirms that (i) Claim No. 1881 is modified to withdraw the Miller Grievance as moot, and (ii) the withdrawal of the Miller Grievance is without prejudice to Miller's rights under the Miller Claim, the Miller Case and the Miller Appeal, which, upon liquidation will be treated under the terms of the Plan of Adjustment.

12. The City and the DPLSA also agree that the City will preserve all of its objections, defenses and rights of set off to the Miller Claim/Case/Appeal.

13. Because this matter involves the resolution of a contested issue, the undersigned believe that entry of an order is appropriate to avoid any future misunderstanding regarding the disposition of the Miller Grievance.

WHEREFORE, the parties request the Court enter the Order attached hereto as Exhibit A.

~Signatures on following page~

STIPULATED AND AGREED:
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DATED: July 15, 2016

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

City of Detroit, Michigan,
Tucker

Bankruptcy Case No. 13-53846

Honorable Thomas J.

Chapter 9

Debtor.

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**ORDER MODIFYING OMNIBUS CLAIM NO. 1881 FILED BY THE
DPLSA TO WITHDRAW DPLSA GRIEVANCE 10-024 FROM OMNIBUS
CLAIM 1881 AS MOOT WITHOUT PREJUDICE TO THE RIGHTS
ASSERTED PURSUANT TO INDIVIDUAL CLAIM NO. 3426 FILED BY
DPLSA MEMBER SERGEANT KEVIN D. MILLER**

This matter is before the Court on the stipulation of the Parties. The Court having read the Parties' Stipulation, is fully advised in the premises and finds good cause for the entry of this Order, and makes the following findings:

NOW THEREFORE,

IT IS HEREBY ORDERED that DPLSA omnibus Claim No. 1881 is modified to withdraw the Miller Grievance as moot.

IT IS FURTHER ORDERED that the withdrawal of the Miller Grievance is without prejudice to the rights of Sergeant Kevin D. Miller under Claim No. 3426 (the "Miller Claim"), *Miller v. City of Detroit, et al*, Wayne County Circuit Court

Case No. 10-06411-CD (the “Miller Case”) and/or pending Michigan Court of Appeals Docket No. 328555(the “Miller Appeal”).

IT IS FURTHER ORDERED that the City preserves its objections, defenses and rights of set off to the Miller Claim/Case/Appeal.

IT IS FURTHER ORDERED that Miller’s rights under the Miller Claim, once adjudicated in the Miller Appeal, will, upon liquidation, be treated under the terms of the Plan of Adjustment.